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10/668,533

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James T. Doubet

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EXAMINER

IWARERE, OLUSEYE

ART UNIT

PAPER NUMBER

3687

NOTIFICATION DATE

DELIVERY MODE

05/05/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/668,533	Applicant(s) DOUBET, JAMES T.	
	Examiner OLUSEYE IWARERE	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-15 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-15 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the correspondence received on 04/17/2011. Amendments to the claims have been entered, and have been considered below.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 04/17/2011 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1 – 5, 7 – 15 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 – 5, 7 – 15 and 21 recite computer readable instructions, not within the technological arts. A process must (1) be tied to another statutory class (such as a

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particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Neither of these requirements are met by the claims, therefore the claims does not qualify as a statutory process and do not positively recite the subject matter that is being transformed, by identifying the material that is being changed to a different state. In this case, the method of claim 1 – 5, 7 – 15 and 21 recite steps without a machine or apparatus performing these steps.

In re Bilski Fed. Cir. 2008, 2007-1130.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 1 – 5, 7 – 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curkendall (2003/0177025) in view of Curatolo (6,510,380).**

As per claim 1, Curkendall discloses a method of tracking transfers of groups of animals with animal passports, the method comprising ([0003]; via a system, computer program product and method for tracking processing events for a meat animal from its conception to its consumption, by using data entry devices):

creating an animal passport to represent a transfer of a group of animals from a transferor to a transferee at a location, the group comprising at least two animals and

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([0032]; discusses transferring animal data for a group of animals from one database to another and communicating information concerning the livestock);

assigning a unique passport identifier to the created animal passport, thereby providing a unique identifier for the transfer ([0020]; via it is desirable to automate the identification and data entry in order to reduce expense and to improve accuracy of the data. These devices typically produce either a unique alphanumeric code or a unique decimal code);

recording, for the created animal passport, the unique passport identifier assigned to the passport, a count of the animals in the group ([0329] discusses the number of animals in the group), the location ([0135] discusses identification or origin and transfer location), descriptive information identifying the animals in the group ([0134] discusses information identifying animals in the group), an identification of the transferor ([0135] discusses identification or origin and transfer location), and an identification of the transferee (fig. 40 discusses identifying the entity for transfer); and

repeating the creating, assigning and the recording for each of at least one subsequent transfer of any of the animals in the group ([0132] discusses repeating steps), wherein the animal passport created for each subsequent transfer also records the unique passport identifier assigned to each most-recent previous transfer of those animals ([0029] discusses complete source verification and performance databases for all key livestock events).

However, Curkendall fails to explicitly disclose, the location comprising at least one of a city and state.

Curatolo teaches a security and tracking system with the feature of the location comprising at least one of a city and state (abstract states, “identifying the location of the signaling units by referencing the global positioning satellite (GPS) system; and notifying the monitoring station of said geographic location”).

From this teaching of Curatolo, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of Curkendall to include the geographic location, taught by Curatolo, in order to locate a missing animal or asset.

As per claim 2, Curkendall discloses, wherein each of the animal passports is signed by the transferor and the transferee who are parties to the transfer, represented by the signed animal passport to certify the transfer ([0237] discusses data used to represent a discrete transaction against an animal. The data can be time-stamped which is construed as signing).

As per claim 3, Curkendall discloses, wherein the recording uses a repository ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system), that is

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maintained by a third party that is distinct from each transferor and each transferee who are parties to any of the transfers ([abstract] and [0214] discusses an alliance or national database which is a third party).

As per claim 4, Curkendall further discloses, comprising using the unique passport identifier assigned to each transfer of any selected one of the animals to track all of the locations of the selected one of the animals ([0130]; via each event can have one or more default details associated with it. For instance, the event "LOCATION" might have three different details such as PEN-1, PEN-2, and NORTH 4000, that can be used to record changes in animals' locations).

As per claim 5, Curkendall discloses, wherein a first of the animal passports is created for a first transfer following birth of the animals in the group, and wherein repeating the creating continues for each subsequent transfer until death of the animals in the group created animal passports thereby reflecting a complete lifetime of the animals and being usable to track all transfers of the animals throughout their lifetime ([0144]; via the bottom half of the screen shows all events recorded during the animal's lifetime).

As per claim 7, Curkendall discloses, wherein the transfers are transfers of ownership ([0395]; via A live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim 8, Curkendall discloses, wherein the transfers are transfers of possession ([0177]; via in some cases, the stocker or cow-calf operator may retain ownership of the calves at the feedlot, so that there is not a sale at that point).

As per claim 9, Curkendall discloses, wherein at least one of the transfers is a transfer of ownership and at least one of the transfers is a transfer of possession ([0395]; via changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per Claim 10, Curkendall discloses, wherein the repeating and assigning are also repeated for subsequent transfers of animal products derived from the animals ([0336]; via regimens allow the user to save a set of events that may be are used repeatedly for a particular group type).

As per Claim 11, Curkendall discloses, wherein the animal passports further specify individual animal identifications of the transferred animals ([0011] discusses tracking individual animals).

As per claim 12, Curkendall discloses, wherein additional animals may be included in one or more of the subsequent transfers, and wherein the animal passport created for such subsequent transfers also record the unique passport identifier assigned to each most-recent previous transfer of those additional animals ([0029] discusses complete source verification and performance databases for all key livestock events).

As per claim 13, Curkendall discloses, wherein animal passports are created for each transfer during a time of the animals and further comprising:

determining a country of origin for a selected animal using the unique passport identifier associated with each passport representing any group in which the selected animal has been transferred to determine, from the location recorded for each passport all locations in which the selected animal has been located throughout its lifetime ([0144]; via the bottom half of the screen shows all events recorded during the animal's lifetime).

further comprising:

determining, for a selected one of the animals, all locations in which the selected animal has been located throughout its lifetime, using each animal passport associated with the selected animal ([0131] discusses determining animal locations and [0144] discusses recorded events in the animal's lifetime); and

preparing a country of origin claim for the selected animal, using the determined locations, wherein the country of origin claim indicates whether the selected animal has been located only in a selected country throughout the lifetime of the animal ([0363]; via these 16 items support the current reporting needs of the IQBSN to track animal origin, genetics and production information).

As per claim 15, Curkendall discloses, constructing a chain of transfers for a selected one of the animals using each of the most-recent previous unique passport identifiers recorded on the animal passports associated with the selected animal, thereby determining all locations in which the selected animal has have been located throughout its lifetime ([0012]; via recording beginning, ending, and periodic weight measurements and treatments; and recording vaccinations, movement and ownership changes, and other significant events that have occurred in the animal's life in order to track of the success of treatments as well as to eliminate duplicate treatments); and

verifying a country of origin claim for the selected animal by comparing the determined locations to one or more locations stated in the country of origin claim

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([0363]; via these 16 items support the current reporting needs of the IQBSN to track animal origin, genetics and production information).

(withdrawn) As per claim 16, Curkendall discloses, a system for uniquely identifying animals transferred groups, the system comprising:

a unique identifier associated with each transfer of a group of animals ([0205]; via although the data collection system can operate manually with visual animal identification, the preferred operation is with Radio Frequency Identification (RFID) transponders 32 in the form of electronic ear tags, implants, boli or neck or leg collars to provide unique identification for each animal);

a repository for recording the unique identifier of each of the transfers ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system);

along with a specification of how many animals are in the group and an identification of one or more transferors and one or more transferees who are parties to the transfer ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will

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have a management database, and a packer will have its own inventory and management system); and

linkage from each subsequent transfer of any of the animals to a most-recent prior transfer of those animals, the linkage comprising a specified association between a new unique identifier associated with each such subsequent transfer and the unique identifier of the prior transfer ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

(withdrawn) As per claim 17, Curkendall teaches, wherein the linkage enables tracing transfers of a subset comprising one or more of the transferred animals by accessing, for each of the transfers of the animals in the subset, the specified association between the unique identifier of the most-recent prior transfer and the new unique identifier of the subsequent transfer for that subset ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

(withdrawn) As per claim 18, Curkendall discloses, a method for identifying transfers of groups of animals from birth to death, comprising:

associating a unique identifier with a transfer of animals from an original owner thereof ([0395]; via changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively and fig. 63 depicts the event data);

associating a different unique identifier with each subsequent transfer of the animals or any subset thereof ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively);

linking, at each subsequent transfer, the different unique identifier with the unique identifier associated with a most-recent previous transfer of the animals in that subsequent transfer ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

(withdrawn) As per claim 19, Curkendall discloses, wherein additional animals may be included in one or more of the subsequent transfers, and wherein the unique identifier of the most-recent previous transfers of those additional animals is also linked

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with the different unique identifier of the subsequent transfer ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim Claim 21, Curkendall discloses a method of providing country of origin claims, the method comprising:

completing, for each of a plurality of transfers of one or more animals from transferors to transferees, a passport document to represent the transfer, wherein each of the passport documents has associated therewith a unique passport identifier, thereby providing a unique identifier for the transfer (fig. 63 depicts an electronic document with these features), further comprising:

specifying, on the passport document, a count of the animals transferred, descriptive information for the animals transferred, and a location of the transfer (fig. 63 depicts count, and descriptive information in the event detail field);

specifying, on the passport document, the unique passport identifier associated with any previous passport document completed to represent a previous transfer of the animals transferred (fig. 63 depicts the unique event ID); and

signing the passport document, by the transferor and the transferee, thereby certifying the transfer ([0237] discusses data used to represent a discrete transaction against an animal. The data can be time-stamped which is construed as signing);

recording each of the transfers in a repository maintained by a third party who is distinct from the transferors and the transferees (abstract and [0027] discusses recording by a third party which is the alliance or national databases), further comprising:

creating an entry in the repository for each of the transfers, each of the entries comprising the unique passport identifier associated with the passport document representing that transfer, the count of the animals transferred, the descriptive information for the animals transferred, the location of the transfer, and the unique passport identifier associated with any previous passport document completed to represent a previous transfer of the animals transferred (fig. 63 depicts creating an entry in the database for each of the events); and

using the entries in the repository to determine, for a selected one of the animals, whether a country of origin claim can be made stating that the selected one was always physically located, from its birth to its death, in a particular country by comparing, in each of the entries that pertains to transferring the selected animal, the location to the particular country (fig. 63 and [0131] discuss entries of core events including origin).

Response to Arguments

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7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Art ().

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEYE IWARERE whose telephone number is (571)270-5112. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW S. GART can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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